

September 21, 2005

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

400 Yesler Way, Room 404
Seattle, Washington 98104
Telephone (206) 296-4660
Facsimile (206) 296-1654

REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **E9900314**

STEVEN & SUSAN LUSA
Code Enforcement Appeal

Location: 17121 Northeast 130th Street

Appellants: **Steven and Susan Lusa**
17121 Northeast 130th Street
Redmond, Washington 98052
Telephone: (425) 881-1142

King County: Department of Development and Environmental Services,
represented by **Erroll Garnett**
900 Oakesdale Avenue Southwest
Renton, Washington 98055-1219
Telephone: (206) 296-7102
Facsimile: (206) 296-6644

SUMMARY OF DECISION/RECOMMENDATION:

Department's Preliminary Recommendation:	Deny appeal
Department's Final Recommendation:	Deny appeal; extend dates of compliance
Examiner's Decision:	Deny appeal; extend dates of compliance

EXAMINER PROCEEDINGS:

Hearing Opened:	September 1, 2005
Hearing Closed:	September 1, 2005

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. On June 22, 2005, the King County Department of Development and Environmental Services (DDES) issued a Notice and Order to Steven and Susan Lusa that alleges a violation of county code at property located at 17121 Northeast 130th Street. The Notice and Order cited the property for violation by “construction of a pool without the required permits, inspections and approvals,” noting that a building permit application under file B96A2394 was applied for the pool in 1996 but expired without ever having been issued. The Notice and Order required that the necessary permits, inspections and approvals be obtained, with a complete application submitted by July 22, 2005, or alternatively, that the non-permitted construction be demolished and removed pursuant to a demolition permit by August 8, 2005.
2. Appellants Steven and Susan Lusa filed a timely appeal of the Notice and Order. The appeal claims that the Appellants’ pool installation contractor obtained all permits to their knowledge, and notes that “an inspector came to the property and cleared the installation.”
3. Despite a building permit never having been approved for installation of the swimming pool, the pool was nevertheless constructed, and in a location different than that which had originally been proposed and applied for. DDES still required a permit, and given the difference in location, approval of the permit request was dependent on a revised plan submittal depicting the as-built location of the pool.
4. It was discovered that the as-built location of the pool infringed on the required drainfield reserve area for the property’s onsite sewage disposal system. Accordingly, in order for a permit to be approved, a new drainfield reserve area is required to be certified. Alternatively, since sanitary sewer service is apparently available to the property, certification of sanitary sewer service availability to the property may be obtained, which would obviate the need for a new certified drainfield reserve area.
5. The information for processing the permit review to completion was not submitted completely and the permit application expired without approval.
6. The inspector which the Appellants claim reviewed the pool installation onsite was likely an inspector for the Health Department reviewing the drainfield reserve area issue. DDES has no record of any onsite inspections or field approvals by DDES.
7. The evidence in the record supports a finding that the violation charged by the Notice and Order is correct in asserting that the swimming pool was built without the necessary permits, inspections and approvals. The only permit application made for the pool expired because the additional information necessary for its approval and issuance was not submitted.

CONCLUSIONS:

1. The charge of the Notice and Order is correct and shall be sustained. Given the fact that the appeal period has obviated the deadlines established by the compliance schedule, the Examiner shall revise the compliance schedule so that the necessary permits may be obtained and the inspections completed so that the matter can be resolved to completion.

DECISION:

The appeal of the Notice and Order is DENIED, except that the deadlines for regulatory compliance are revised and extended as stated in the following order.

ORDER:

1. Apply for and obtain the required permits, inspections and approvals, with a complete application to be submitted by *no later than* **October 31, 2005**. Meet all DDES deadlines for requested information associated with the permit and obtain the permit within the required deadlines. (A pre-application meeting is required but does not satisfy the deadline imposed for submittal of a complete application. Call 206-296-6797 to schedule a pre-application meeting and to obtain information regarding requirements necessary to be presented at the pre-application meeting.)

OR

Obtain a demolition permit and remove/demolish the non-permitted construction and remove the demolition debris from the premises by *no later than* **November 30, 2005**.

2. No penalties shall be assessed against the Appellants or their property if the above conditions are met. If any of the deadlines stated in the above conditions are not met, DDES may assess penalties against the Appellants and the property retroactive to the date of this order.

ORDERED this 21st day of September, 2005.

Peter T. Donahue, Deputy
King County Hearing Examiner

TRANSMITTED this 21st day of September, 2005, via certified mail to the following:

Steven & Susan Lusa
17121 NE 130th St.
Redmond, WA 98052

TRANSMITTED this 21st day of September, 2005, to the following parties and interested persons of record:

Steven & Susan Lusa
17121 NE 130th St.
Redmond WA 98052

Suzanne Chan
DDES, Code Enf.
MS OAK-DE-0100

Elizabeth Deraitus
DDES/LUSD
MS OAK-DE-0100

Erroll Garnett
DDES/LUSD
MS OAK-DE-0100

Trudy Hintz
DDES/LUSD
MS OAK-DE-0100

Patricia Malone
DDES/LUSD
MS OAK-DE-0100

Lamar Reed
DDES/LUSD
MS-OAK-DE-0100

NOTICE OF RIGHT TO APPEAL

Pursuant to Chapter 20.24, King County Code, the King County Council has directed that the Examiner make the final decision on behalf of the County regarding code enforcement appeals. The Examiner's decision shall be final and conclusive unless proceedings for review of the decision are properly commenced in Superior Court within twenty-one (21) days of issuance of the Examiner's decision. (The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.)

MINUTES OF THE SEPTEMBER 1, 2005, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. E9900314.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Erroll Garnett representing the Department, and Appellant Steven Lusa.

The following Exhibits were offered and entered into the record:

- Exhibit No. 1 DDES report to the Hearing Examiner for September 1, 2005
- Exhibit No. 2 Copy of Notice and Order with cover letter issued June 22, 2005
- Exhibit No. 3 Copy of Notice and Statement Appeal received July 7, 2005
- Exhibit No. 4 Copies of codes cited in the Notice and Order
- Exhibit No. 5 Copy of violation letter sent March 24, 1999
- Exhibit No. 6 Copy of permit comment screen from B96A2394
- Exhibit No. 7 Copy of site plan submitted for B96A2394
- Exhibit No. 8 Copy of letter from Seattle-King County Dept. of Public Health dated July 26, 1996
- Exhibit No. 9 Photo (1 color copy) of subject site and 2002 aerial photo